FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.384 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.Pratip Patil & J.N.Singh for the petitioners.

Mr.Abhaykumar Apte for Respondent no.1.

Mr.P.S.Hingorani APP for the State.

Coram : R.S.Mohite,J

Date : 28.03.2006.

PC

1. This is a petition impugning an order dated 13.12.2005 passed by the JMFC, Vadgaon issuing process under Section 406, 409, 120-B read with 34 of IPC. This order has been confirmed by the revisional Court vide its order dated 7.2.2006 whereby the revision filed by the present petitioners has been dismissed. I have perused the complaint and the verification. It is clear from the complaint and verification that the case of

the complainant is that the company by name Jamuna Transport Corporation Ltd., was formed only to look after joint family business. The allegation is that the bank account of the said company with SBI, Chinchwad branch, was closed behind his back and amount of Rs.2,00,000/- was transferred to SBI, Calcutta. In his complaint he states that the business of the company was essentially the business of joint family properties consisting of 7 brothers though business was given a colour of corporate entity. The essence of the complaint is that the monies and properties belonging to him which has been entrusted to the accused were divested by various acts and actions on the part of the accused.

2. On behalf of the petitioners it was submitted that the respondent was removed as a director of the company and that

the company had passed a resolution permitting the closure of account. This is a defence which will have to be considered at the stage of trial. The complainant is seeking to lift the corporate well on the footing that there is an offence of criminal breach of trust which is created. In my view, this is not a case where concurrent orders of the 2 lower Courts must be interfered with. Hence, petition is dismissed. It is made clear that the observations made in this order are prima facie and will not be used by the trial Court at the stage of the trial.

(R.S.Mohite,J)